

## Return of the Patriot Act

With key parts of the Patriot Act due to expire shortly, Congress has an opportunity to improve the law. Instead, it seems poised to renew many of the provisions that infringe most directly on civil liberties — and to add some new ones. There is nothing “patriotic” about letting the F.B.I. seize the records of ordinary Americans without a judge’s approval, or taking away the federal judiciary’s historical role in ensuring that the death penalty is imposed fairly. Some senators are threatening a filibuster as they negotiate to block some of the act’s more egregious provisions. We hope a filibuster isn’t necessary.

Congress passed the Patriot Act hurriedly after the Sept. 11 attacks, with little time for reasoned discussion. Many of the most aggressive provisions were written to be phased out after a few years, to ensure that a future Congress would be able to reconsider them in calmer circumstances. If that were really happening, Congress would not be preparing to authorize the continued use of “national security letters,” an investigative tool that gives the F.B.I. sweeping power to riffle through ordinary Americans’ private records.

Unlike search warrants, national security let-

ters do not need to be approved by a judge. The F.B.I. can issue them on its own initiative to places that hold sensitive information about American citizens, like libraries, doctors’ offices, banks and Internet service providers. The Washington Post recently reported that the F.B.I. now issues more than 30,000 national security letters a year.

Congress also seems likely to reauthorize the “gag rule” for national security letters, which makes it a crime for a recipient to tell anyone, other than its own lawyers, about the request. Because of this secrecy provision, ordinary Americans have no way of knowing whether their doctors or Internet providers are handing over their confidential records. Congress may also add some new, troubling provisions to the act, like a disturbing weakening of habeas corpus protection — an important method of challenging a wrongful conviction — in all capital cases, not just ones connected to terrorism.

There are many things Congress should be doing to protect the nation from terrorism. None of them involve dismantling the freedoms of ordinary Americans. There is still time to fix the many problems with the Patriot Act.